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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 9.1.2007.

Harbans Singh .... Appellant

vs

Gram Panchayat and others .....Respondents.

Coram Hon'ble Ms. Justice Kiran Anand Lall.

Present: Mr.Ashok Verma,Advocate,for the appellant.

Kiran Anand Lall, J.

The appellant has lost in both the courts below. His suit was for a declaration to the effect that though the revenue records reflect the existence of a passage in khasra nos.201, 202, and 203, no such passage is, infact, in existence, at the spot, since times immemorial, and the entire land is in his (and of proforma respondents no.5 to 11) cultivating possession. He had also claimed a decree for permanent injunction restraining the contesting respondent no.1, Gram Panchayat, from carving out any passage in the said land.

During the pendency of suit, respondents no.2 to 4 got themselves impleaded, as defendants, pleading that the Sarpanch of the Gram Panchayat and proforma respondents no.5 to 11 were related to the appellant and the latter wanted to grab the land under the passage, with their connivance. Respondents no.2 to 4, therefore, sought a decree for permanent injunction, by way of counter-claim, restraining the appellant and respondents no.5 to 11 from encroaching upon the land underneath the passage and also sought a direction, by way of mandatory injunction, for removal of the illegal construction raised by them on a part of the passage, after the filing of suit.

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The trial court dismissed the suit of the appellant and allowed the counter-claim of respondents no.2 to 4, mainly on the basis of the admission of the appellant (as PW3) to the effect that a metalled road is in existence in khasra no.201, since the time of consolidation. The first appellate court also upheld this verdict.

The instant appeal filed against the concurrent verdict of the trial court and the first appellate court deserves to be dismissed, since no substantial question of law is involved in it. Otherwise, too, it has no merit, as the verdict of the trial court and the first appellate court is based on the appellant's own admission. Relevant portion of his cross-examination (as PW3), admitting the existence of a passage (road), at the spot, reads as under:-

> *"It is correct that a metalled road goes to Peer Khera through Khasra No.201. It is correct that this passage has been running since the time of consolidation. The persons whose land falls on this passage, are using the same."*

Since the appellant had himself admitted the existence of passage at the spot, no fault can be found with the verdict of the courts below. The appeal is, therefore, liable to be dismissed in limine, and it is so ordered.

9.1.2007. (Kiran Anand Lall)
vs. Judge.